

**REMARKS**

All pending claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over various combination of U.S. patents of Heddaya, Smith, Ganguly, Eichstaedt, Reiche, Lapstun, Birnbaum, and Genty. Applicant respectfully submits that all the above cited references do not teach or suggest all the limitations of the claims as amended.

**CLAIM REJECTIONS UNDER 35 U.S.C. § 103**

Independent claims 1, 23, 49, 63, 70 and 71 are rejected under 35 USC 103(a) as being allegedly unpatentable over Heddaya, Smith and Ganguly. Independent claim 58 is rejected under 35 USC 103(a) as being allegedly unpatentable over Heddaya, Smith, Ganguly and Reiche.

Claim 1 recites “wherein the act of prefabricating the first page comprises sending a request for information of the first page, wherein the request is transmitted at a rate based on system resource information.” (Emphasis added). None of the cited references disclose or suggest these limitations.

Heddaya discloses protocol for distributing fresh content among networked cache servers. Heddaya replicates copies of documents in a computer network. Cache servers cooperate to update cache content by communicating with neighboring caches whenever information is received about invalid cache copies. Thus, Heddaya updates cache information whenever invalid copies are found. Heddaya does not disclose “the act of prefabricating the first page comprises sending a request for information of the first page, wherein the request is transmitted at a rate based on system resource information.”

Smith discloses a system, method and computer program product that pre-cache or downloads information from internet sites that the system expects user to request. The system schedules pre-caching to occur at most appropriate time of day to increase the likelihood that the most recent information is provided to the user in a timely manner. Actual usage is monitored to adjust to user-changing habits, conserve resources at both the server and client, and prioritizes information against interrupted downloads and exhausted or limited cache or memory space. Thus, Smith controls download or pre-cache information using user habit information and not

changing system resources information as claimed. Smith does not disclose “the act of prefabricating the first page comprises sending a request for information of the first page, wherein the request is transmitted at a rate based on system resource information.”

Ganguly discloses predicate indexing of data stored in a computer with application to indexing cached data. It is silent with respect to prefabrication and does not request any information for prefabrication. Thus, Ganguly does not disclose “the act of prefabricating the first page comprises sending a request for information of the first page, wherein the request is transmitted at a rate based on system resource information” as claimed.

Reiche discloses a HTTP distributed remote user authentication system. It is silent with respect to prefabrication and does not request any information for prefabrication. Thus, Reiche does not disclose “the act of prefabricating the first page comprises sending a request for information of the first page, wherein the request is transmitted at a rate based on system resource information” as claimed.

Heddaya, Smith, Ganguly and Reiche, singly or in combination, fail to disclose or suggest all the limitations as claimed. Thus, Applicants respectfully request that these rejections be withdrawn.

Claims 49, 58, and 63 disclose similar limitations as claim 1. Claims 23, 70-71, and 73-74 represent the system and computer program product claims implementing the above method claims and thus are believed to be allowable over the cited references for at least the foregoing reasons. As such, Applicants respectfully submit that claims 1, 23, 49, 58, 63, 70-71, and their respective dependent claims are believed to be allowable over the cited references.

Claims 96 and 98 recite “wherein the PRB identifies at least one of a depth level, a prioritization weight, and an average page generation time.” The Office Action merely stated that it is inherent that the PRB includes the depth level. Applicants respectfully disagree. As stated in MPEP 2112:

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re*

*Rijekaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted) (The claims were drawn to a disposable diaper having three fastening elements. The reference disclosed two fastening elements that could perform the same function as the three fastening elements in the claims. The court construed the claims to require three separate elements and held that the reference did not disclose a separate third fastening element, either expressly or inherently.). >Also, "[a]n invitation to investigate is not an inherent disclosure" where a prior art reference "discloses no more than a broad genus of potential applications of its discoveries." *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1367, 71 USPQ2d 1081, 1091 (Fed. Cir. 2004) (explaining that "[a] prior art reference that discloses a genus still does not inherently disclose all species within that broad category" but must be examined to see if a disclosure of the claimed species has been made or whether the prior art reference merely invites further experimentation to find the species.<

The Office Action asserts that it is inherent that when the source computer and target computer have corresponding allocated virtual memory spaces for transferring the page data, the depth level of the virtual memory space is required to be known in order for the transfer to properly occur. Even if this analysis is true, it is not necessary that the depth level be transmitted in a PRB. Depth level information may be transmitted by other blocks, packets, carrier waves or many other methods. Because the claim recites that the PRB identifies a depth level and the PRB does not have to identify a depth level, it is not inherent that the PRB includes a depth level as claimed.

Therefore, Applicants respectfully request that the §103 rejections be withdrawn.

**CONCLUSION**

Based on the foregoing, all remaining claims are in condition for allowance, which is respectfully requested. If the Examiner has any questions or comments regarding this response, the Examiner is respectfully requested to contact the undersigned at the number listed below.

To the extent that any arguments and disclaimers were presented to distinguish prior art, or for other reasons substantially related to patentability, during the prosecution of any and all parent and related application(s)/patent(s), Applicant(s) hereby explicitly retracts and rescinds any and all such arguments and disclaimers, and respectfully requests that the Examiner re-visit the prior art that such arguments and disclaimers were made to avoid.

Credit card payment by USPTO - EFS in the amount of \$930.00 is charged herein.

The Commissioner is authorized to charge Vista IP Law Group LLP Account No. 50-1105 for any fees required that are not covered, in whole or in part, and to credit any overpayments to said Deposit Account No. 50-1105.

Respectfully submitted,

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